

IC 32-17-9

Chapter 9. Uniform Act on Transfer on Death Securities

IC 32-17-9-1

Application

Sec. 1. This chapter applies to registrations of securities:

- (1) in beneficiary form regardless of the date of registration; and
- (2) by persons who die after June 30, 1997.

As added by P.L.2-2002, SEC.2.

IC 32-17-9-2

"Beneficiary form" defined

Sec. 2. As used in this chapter, "beneficiary form" means a registration form for a security that indicates:

- (1) the present owner of the security; and
- (2) the intention of the owner regarding the person who will become the owner of the security upon the death of the owner.

As added by P.L.2-2002, SEC.2.

IC 32-17-9-3

"Register" defined

Sec. 3. As used in this chapter, "register" means:

- (1) to issue a certificate showing the ownership of a certificated security; or
- (2) in the case of an uncertificated security, to initiate or transfer an account showing ownership of securities.

As added by P.L.2-2002, SEC.2.

IC 32-17-9-4

"Registering entity" defined

Sec. 4. (a) As used in this chapter, "registering entity" means a person who originates or transfers a security title by registration.

(b) The term includes:

- (1) a broker maintaining security accounts for customers; and
- (2) a transfer agent or other person acting for or as an issuer of securities.

As added by P.L.2-2002, SEC.2.

IC 32-17-9-5

"Security" defined

Sec. 5. (a) As used in this chapter, "security" means a share, participation, or other interest in property, in a business, or in an obligation of an enterprise or other issuer.

(b) The term includes a certificated security, an uncertificated security, and a security account.

As added by P.L.2-2002, SEC.2.

IC 32-17-9-6

"Security account" defined

Sec. 6. As used in this chapter, "security account" means:

- (1) a reinvestment account associated with a security, a securities account with a broker, a cash balance in a brokerage account, cash, interest, earnings, or dividends earned or declared on a security in an account, a reinvestment account, or a brokerage account, whether or not credited to the account before the owner's death; or
- (2) a cash balance or other property held for or due to the owner of a security as a replacement for or product of an account security, regardless of whether the cash was credited to the account before the owner's death.

As added by P.L.2-2002, SEC.2.

IC 32-17-9-7

Registration in beneficiary form; sole or joint tenancy ownership

Sec. 7. (a) Only individuals whose registration of a security shows:

- (1) sole ownership by one (1) individual; or
- (2) multiple ownership by two (2) or more individuals with right of survivorship, rather than as tenants in common;

may obtain registration in beneficiary form.

(b) Multiple owners of a security registered in beneficiary form hold as:

- (1) joint tenants with right of survivorship; or
- (2) tenants by the entireties;

and not as tenants in common.

As added by P.L.2-2002, SEC.2.

IC 32-17-9-8

Registration in beneficiary form; applicable law

Sec. 8. (a) A security may be registered in beneficiary form if the form is authorized by this or a similar statute of:

- (1) the state of:
 - (A) organization of the issuer or registering entity;
 - (B) the location of the registering entity's principal office; or
 - (C) the office of its transfer agent or its office making the registration; or
- (2) the state listed as the owner's address at the time of registration.

(b) Notwithstanding subsection (a), a registration governed by the law of a jurisdiction in which this or similar legislation:

- (1) is not in force; or
- (2) was not in force when a registration in beneficiary form was made;

is presumed to be valid and authorized as a matter of contract law.

As added by P.L.2-2002, SEC.2.

IC 32-17-9-9

Origination of registration in beneficiary form

Sec. 9. A security, whether evidenced by certificate or account, is

registered in beneficiary form when the registration includes a designation of a beneficiary to take the ownership at the death of the owner or the deaths of all multiple owners.

As added by P.L.2-2002, SEC.2.

IC 32-17-9-10

Form of registration in beneficiary form

Sec. 10. To be effective, registration in beneficiary form must be shown by:

(1) the words "transfer on death" or the abbreviation "T.O.D.";

or

(2) the words "pay on death" or the abbreviation "P.O.D.";

after the name of the registered owner and before the name of a beneficiary.

As added by P.L.2-2002, SEC.2.

IC 32-17-9-11

Effect of a T.O.D. notation on registration in beneficiary form

Sec. 11. (a) The designation of a T.O.D. beneficiary on a registration in beneficiary form has no effect on ownership until the owner's death.

(b) A registration of a security in beneficiary form may be canceled or changed at any time by the sole owner or all of the then surviving owners without the consent of the beneficiary.

As added by P.L.2-2002, SEC.2.

IC 32-17-9-12

Ownership on death of owner

Sec. 12. (a) On the death of a sole owner or the last to die of all multiple owners, ownership of securities registered in beneficiary form passes to the beneficiary or beneficiaries who survive all owners.

(b) On proof of death of all owners and compliance with the applicable requirements of the registering entity, a security registered in beneficiary form may be reregistered in the name of the beneficiary or beneficiaries who survived the death of all owners.

(c) Until division of the security after the death of all owners, multiple beneficiaries surviving the death of all owners hold their interests as tenants in common.

(d) If a beneficiary does not survive the death of all owners, the security belongs to the estate of the deceased sole owner or the estate of the last to die of all multiple owners.

As added by P.L.2-2002, SEC.2.

IC 32-17-9-12.1

Liability for creditor claims and statutory allowances; applicable law

Sec. 12.1. The liability of a beneficiary for creditor claims and statutory allowances is determined under IC 32-17-13.

As added by P.L.165-2002, SEC.13.

IC 32-17-9-13

Protection of registering entity

Sec. 13. (a) A registering entity is not required to offer or to accept a request for security registration in beneficiary form. If a registering entity offers registration in beneficiary form, the owner requesting registration in beneficiary form assents to the protections given to the registering entity by this chapter.

(b) By accepting a request for registration of a security in beneficiary form, the registering entity agrees that the registration will be implemented on the death of the deceased owner as provided in this chapter.

(c) A registering entity is discharged from all claims to a security by the estate, creditors, heirs, or devisees of a deceased owner if the registering entity registers a transfer of the security in accordance with section 11 of this chapter and does so in good faith reliance on:

- (1) the registration;
- (2) this chapter; and
- (3) information provided to it by:
 - (A) affidavit of the personal representative of the deceased owner;
 - (B) the surviving beneficiary;
 - (C) the surviving beneficiary's representatives; or
 - (D) other information available to the registering entity.

(d) The protections of this chapter do not extend to a reregistration or payment made after a registering entity has received written notice from any claimant to any interest in the security objecting to implementation of a registration in beneficiary form. No other notice or other information available to the registering entity affects the registering entity's right to protection under this chapter.

(e) The protection provided by this chapter to the registering entity of a security does not affect the rights of beneficiaries in disputes between themselves and other claimants to ownership of the security transferred or its value or proceeds.

As added by P.L.2-2002, SEC.2.

IC 32-17-9-14

Nontestamentary transfer on death

Sec. 14. (a) A transfer on death resulting from a registration in beneficiary form is effective by reason of the contract regarding the registration between the owner and the registering entity and this chapter and is not testamentary.

(b) This chapter does not limit the rights of creditors of security owners against beneficiaries and other transferees under other laws of Indiana.

As added by P.L.2-2002, SEC.2.

IC 32-17-9-15

Terms, conditions, and forms for registration

Sec. 15. (a) A registering entity offering to accept registrations in beneficiary form may establish the terms and conditions under which

it will receive requests:

- (1) for registrations in beneficiary form; and
- (2) for implementation of registrations in beneficiary form, including requests for cancellation of previously registered TOD beneficiary designations and requests for reregistration to effect a change of beneficiary.

(b) The terms and conditions established under subsection (a) may provide for the following:

- (1) Proving death.
- (2) Avoiding or resolving any problems concerning fractional shares.
- (3) Designating primary and contingent beneficiaries.
- (4) Substituting a named beneficiary's descendants to take in the place of the named beneficiary if the beneficiary has died. Substitution may be indicated by appending to the name of the primary beneficiary the letters LDPS, standing for "lineal descendants per stirpes". This designation substitutes a deceased beneficiary's descendants who survive the owner for a beneficiary who fails to survive the owner, the descendants to be identified and to share in accordance with the law of the beneficiary's domicile at the owner's death governing inheritance by descendants of an intestate.

(c) In addition to the items described in subsection (b), terms and conditions established under subsection (a) may also include:

- (1) other forms of identifying beneficiaries who are to take on one (1) or more contingencies; and
- (2) rules for providing proofs and assurances needed to satisfy reasonable concerns by registering entities regarding conditions and identities relevant to accurate implementation of registrations in beneficiary form.

(d) The following are illustrations of registrations in beneficiary form that a registering entity may authorize:

- (1) Sole owner-sole beneficiary: John S. Brown T.O.D. (or P.O.D.) John S. Brown, Jr.
- (2) Multiple owners-sole beneficiary: John S. Brown, Mary B. Brown, JT TEN, T.O.D. John S. Brown, Jr.
- (3) Multiple owners-primary and secondary (substituted) beneficiaries as follows:
 - (A) John S. Brown, Mary B. Brown, JT TEN, T.O.D. John S. Brown, Jr. SUB BENE Peter Q. Brown.
 - (B) John S. Brown, Mary B. Brown, JT TEN, T.O.D. John S. Brown, Jr. LDPS.

As added by P.L.2-2002, SEC.2.